

UNITED STATES DISTRICT COURT  
WESTERN DISTRICT OF WASHINGTON  
AT TACOMA

MYRON GAYLORD BRANDON,

Petitioner,

v.

KENNETH QUINN,

Respondent.

Case No. C05-5417FDB

ORDER ADOPTING REPORT  
AND RECOMMENDATION

In response to the Magistrate Judge's Report and Recommendation, Petitioner presents a discussion of ex post facto law, and concluding that "initiative 593, was applied incorrectly in my case going back in time before the act became law, and using prior crimes to make my sentence life without." The Magistrate Judge referenced the Court of Appeals discussion of the use of four prior convictions. The Magistrate Judge concluded that *Apprendi v. New Jersey*, 530 U.S. 466 (2000) does not apply retroactively. The Court agrees with the Magistrate Judge's analysis and rejects Petitioner's objections.

The Court having reviewed the Report and Recommendation of the Hon. Karen L. STrombom United States Magistrate Judge, objections to the Report and Recommendation, and the remaining record, does hereby find and Order:

- (1) The Court adopts the Report and Recommendation;
- (2) The petition is **DISMISSED WITH PREJUDICE** for the reasons set forth in the Report and Recommendation.
- (3) The clerk is directed to send copies of this Order to Petitioner, counsel for Respondent, and to the Hon. Karen L. Strombom.

DATED this 25<sup>th</sup> day of January 2006.

  
FRANKLIN D. BURGESS  
UNITED STATES DISTRICT JUDGE